IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 9605 of 2005

Between:

Damarapati Ayyaswamy Naidu, S/o. Chengama Naidu, HINDU,
R/o. buchnaidupalli Village, Chandragiri Mandal, Chittoor District.

..... PETITIONER

AND

1 The District Collector, Chittoor Distritct at Chittoor.
2 The Mandal Revenue Officer, Clhandragiri Mandal, Chittoor Distritct.
3 The Buchinaidupalli Gram Panchayat, Rep. by its Sarpanch, Buchinaidupalli Village, Clhandragiri Mandal, Chittoor Distritct.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, more in the nature of Mandamus, declaring the action of the respondents in trying to lay the road through the land belonging to the Petitioner situate in S.No. 3/1, 3/5B, 57/2 and 3/5C, totally to an extent of 0.80 cents situate in Mittapalem Village of Chandragiri Mandal in Chittoor District without following the due process of law and without acquiring the same under the provisions of Land Acquisition Act as being illegal, arbitrary and violative of Principles of natural justice and fair play besides articles 14, 21 and 300-A of the Constitution of India.

Counsel for the Petitioner:MR.D.SESHADRI NAIDU

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the admission stage made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.9605 OF 2005

ORDER :

Heard the learned Counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

The petitioner seeks a Writ of Mandamus declaring the action of the respondents in trying to lay the road through the land belonging to the petitioner in an extent of 0.80 cents situated in Sy.Nos.3/1, 3/5B, 57/2 and 3/5C of Mittapalem Village, Chandragiri Mandal, Chittoor District without following due process of law as arbitrary and illegal.

It is represented by the learned Counsel appearing for both the parties that the issue involved in this writ petition is squarely covered by a decision of this Court in W.P.No.21198 of 1997 and batch, dated 03-02-1998, wherein the Division Bench while considering an identical question, issued guidelines as under :

1) Where a property is required for public purposes viz., widening of roads or for any other purpose, the authorities straight away cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

2) If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3) In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

4) If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

5) In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

6) If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The learned Standing Counsel appearing for the respondent does not dispute the above legal position.

Accordingly, the Writ Petition is disposed of directing the respondents not to lay the road through the land belonging to the petitioner in an extent of 0.80 cents situated in Sy.Nos.3/1, 3/5B, 57/2 and 3/5C of Mittapalem Village, Chandragiri Mandal, Chittoor District without following the guidelines issued by the Division Bench in the above writ petition. No costs.

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26th April, 2005.

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To

1 The District Collector, Chittoor Distritct at Chittoor.

2 The Mandal Revenue Officer, Clhandragiri Mandal, Chittoor Distritct.
3 The Sarpanch, Buchinaidupalli Gram Panchayat, Buchinaidupalli Village, Clhandragiri Mandal, Chittoor Distritct.

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